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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,774	12/20/2001	Damien R. Forkner	10012176-1	5672

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EXAMINER	
VO, LILIAN	
ART UNIT	**PAPER NUMBER**
2195	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/029,774	FORKNER ET AL.	
	Examiner	Art Unit	
	Lilian Vo	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 2/5/07.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1 – 4, 6 – 14, 16 – 21 and 23 - 26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1 – 4, 6 – 14, 16 – 21 and 23 - 26 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 4, 6 – 14, 16 – 21 and 23 - 26 are pending. Claims 5, 15 and 22 have been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 – 3, 6 – 10, 12 –14, 16 – 19, 21 and 23 - 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin (US 6,237,005) in view of Ikuta et al. (US Pat. 6,243,719, hereinafter Ikuta).

4. Regarding **claim 1**, Griffin discloses a server (fig. 2) comprising:

an application (abstract and fig. 2), the application comprising:

a persistent process that generates dynamic and interactive HTML content for the application (abstract, col. 7 lines 1 - 18); and

a plurality of transient processes, wherein each transient process is launched to handle a client request from a client by parsing the client request, forwarding the client request to the persistent process, capturing a result from the persistent process and forwarding the result to the client (col. 3 lines 17 – 27, 58 – 65 and col. 11 lines 50 - 53).

Griffin did not clearly disclose the persistent process performs background processing when no client requests are pending, the background processing including caching in memory. Nevertheless, Ikuta discloses the cache file 22 is updated in the background when the server has some surplus processing capability (col. 6 lines 29 – 31; col. 8 lines 51 – 63, col. 9 lines 10 – 16, 29 – 35 and fig. 6). It would have been obvious to one of an ordinary skill in the art, at the time the invention was made, to combine Ikuta's teaching with Griffin because Griffin's master interpreter (persistent process) "...is formed at time 1009 corresponding to a time prior to the receipt of the first transaction request message...The duration 1016 of the master interpreter 1002 extends from the time it was formed 1009 to an indefinite time in the future..." (col. 15 lines 41 – 48), thus is capable of performing the step of caching in the background when there is no pending requests so that resource can be fully utilized.

5. Regarding **claim 2**, as modified Griffin discloses the persistent process utilizes a support process outside the server (Griffin: col. 3 lines 50 - 56).

6. Regarding **claim 3**, as modified Griffin discloses the transient processes implement a CGI (Griffin: col. 6 lines 2 - 6).

7. Regarding **claim 6**, as modified Griffin discloses that each of the plurality of transient processes terminates after forwarding the result to the client (Griffin: col. 3 lines 17 – 22 and col. 11 lines 50 - 53).

8. Regarding **claim 7**, as modified Griffin discloses when a first client sends a file request for a file, a first transient process obtains and forwards the file to the first client (Griffin: col. 7 lines 1 – 18).

9. Regarding **claim 8**, as modified Griffin discloses when a first client sends a file request for a file, a first transient process, after verifying access to the file, obtains and forwards the file to the first client (Griffin: col. 7 lines 1 – 18 and col. 9 lines 27 - 32).

10. Regarding **claim 9**, as modified Griffin discloses the plurality of transient processes communicate with the persistent process via interprocess communication (IPC) (Griffin: col. 6 lines 22 – 67 and figs. 5 - 6).

11. **Claims 10, 12 – 14, 16 – 19, 21 and 23 - 25** are rejected on the same ground as stated in claims 1 – 3 and 6 - 9 above.

12. Claims 4, 11, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin (US 6,237,005) in view of Ikuta et al. (US Pat. 6,243,719), as applied claims 1, 12 and 21 above, in view of Challenger et al. (US 6,026,413, hereinafter Challenger).

13. Regarding **claims 4 and 11**, as modified Griffin discloses that by maintaining master and pristine interpreters in memory for multiple transactions… the computer is able to service a larger number of users who are submitting these transactions during a high-usage, time period (Griffin: col. 4 liens 6 – 10). Therefore, it would have been obvious to one of an ordinary skill in

the art, at the time the invention was made, that by servicing a larger number of users submitting the requests it implies that Griffin's system includes or uses a queue for the request. Furthermore, Challenger discloses the uses of a queue for storing the incoming requests (fig. 33a, 33B and 34). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made, to incorporate this feature to modified Griffin's system so that incoming requests can be queued as they are waiting to be serviced accordingly in the order they were received.

14. **Claims 20 and 26** are rejected on the same ground as stated in claims 4 and 11 above.

Response to Arguments

15. Applicant's arguments filed 2/5/07 have been fully considered but they are not persuasive for the reasons set forth below.

16. In response to applicant's arguments against the references individually (page 2 paragraph 9th – page 3 2nd paragraph), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

17. Regarding applicant's remark that Griffin and Ikuta do not disclose the persistent process performs background processing when no client requests are pending, the background processing

including caching in memory (page 2 paragraph 8th – page 3 2nd paragraph), the examiner disagrees. Ikuta discloses the cache file 22 is updated in the background when the server has some surplus processing capability (col. 6 lines 29 – 31, col. 8 lines 51 – 63, col. 9 lines 10 – 16, 29 – 35 and fig. 6). It would have been obvious to one of an ordinary skill in the art, at the time the invention was made, to combine Ikuta's teaching with Griffin because Griffin's master interpreter (persistent process) "...is formed at time 1009 corresponding to a time prior to the receipt of the first transaction request message...The duration 1016 of the master interpreter 1002 extends from the time it was formed 1009 to an indefinite time in the future..." (col. 15 lines 41 – 48), thus is capable of performing the step of caching in the background when there is no pending requests so that resource can be fully utilized.

18. In response to applicant's argument that there is no suggestion to combine the references (page 4 1st paragraph - 5th paragraph), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for the rejection is found in the knowledge generally available to one of an ordinary skill in the art.

19. In response to applicant's argument that "the use of a cache in an electronic conference system such as Ikuta would not provide motivation for a person of ordinary skill in the art to

modify Griffin to include a caching apparatus..." and "there is no teaching or suggestion in Griffin of how a cache could be used to any advantage in the interpreting process" (page 4 paragraph 2 and 5 – 6, page 5 paragraph 2), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

20. With respect to applicant's remark that "there is no teaching or suggestion in Griffin of how a cache could be used to any advantage in the interpreting process. Thus, no motivation is provided in Griffin for a person of ordinary skill in the art to add a cache memory to the web server mechanism disclosed by Griffin" (page 4 last paragraph - page 5 1st paragraph), the examiner disagrees. Griffin's master interpreter (persistent process) "...is formed at time 1009 corresponding to a time prior to the receipt of the first transaction request message...The duration 1016 of the master interpreter 1002 extends from the time it was formed 1009 to an indefinite time in the future..." (col. 15 lines 41 – 48), In this case, a person of an ordinary skill in the art is motivate to add a cache memory to the web server for storing the information of the duration of the master interpreter as it is formed for the particular session.

21. Similar responses as stated above are applied to applicant's argument regarding claims 12 and 21.

Conclusion

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lilian Vo
Examiner
Art Unit 2195

lv
April 12, 2007

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